

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 13TH SEPTEMBER 2007 / 22ND BHADRA 1929

WP(C).No. 4999 of 2007(T)

PETITIONER:

P. SUNDERADAS, S/O.P. KRISHNAN,
AGED 59 YEARS, 'KRISHNA',
WEST HILL, CALICUT.

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK

RESPONDENTS:

1. THE ASSISTANT COMMISSIONER (ASSESSMENT)
SPECIAL CIRCLE-1, DEPARTMENT OF
COMMERCIAL TAXES, KOZHIKODE.
2. THE DEPUTY TAHSILDAR (R.R.),
KOZHIKODE.

BY G.P. SRI. C.K. GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE JNOTICE DATED 30.1.2007 ISSUED BY THE 2ND RESPONDENT INTIMATING INITIATION OF RECOVERY PROCEEDINGS TO REALISE THE SALES TAX ARREARS OF 1996-97 ,1997-98, 1999-2000 AND 2000-01.

EXT.P2 TRUE COPY OF THE RR NOTICES DATED 30.1.2007 ISSUED BY THE 2ND RESPONDENT FOR THE ASSESSMENT YEARS 1997-98

EXT.P3 TRUE COPY OF THE RR NOTICES DATED 30.1.2007 ISSUED BY THE 2ND RESPONDENT FOR THE ASSESSMENT YEARS 1998-99

EXT.P4 TRUE COPY OF THE REPRESENTATION DATED 2.2.2007 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 4999 OF 2007

Dated this the 13th day of September, 2007

JUDGMENT

I do not think there is any need for this Court to decide petitioner's liability for sales tax as Managing Director of the Company in terms of Section 26C of the KGST Act. Based on petitioner's submissions, this Court ordered recovery from company's properties. Government Pleader reported that even though company has some properties, the liability due from the company to Co-op. Bank is above Rs. 4.5 crores. In the circumstances, petitioner as managing director should settle the liability of all the creditors including sales tax failing which respondents can proceed for recovery in accordance with Section 26C of the KGST Act against petitioner personally. Petitioner is granted two months' time from today for settling liability failing which personal recovery can be continued against him under Section 26 C of the Act.

W.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge

